

Connection

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 **BUDGET**

Twenty years from now you will be more disappointed by the things that you didn't do than by the ones you did do, so throw off the bowlines, sail away from safe harbor, catch the trade winds in your sails. Explore. Dream. Discover.

~Mark Twain

Lalit Bajaj & Associates
Chartered Accountants

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Highlights of Union Budget 2015

BUDGET ESTIMATES

- Non-Plan expenditure estimates for the Financial Year are estimated at Rs.13,12,200 crore.
- Plan expenditure is estimated to be Rs.4,65,277 crore, which is very near to the R.E. of 2014-15.
- Total Expenditure has accordingly been estimated at Rs.17,77,477 crore.
- The requirements for expenditure on Defence, Internal Security and other necessary expenditures are adequately provided.
- Gross Tax receipts are estimated to be Rs.14,49,490 crore.
- Devolution to the States is estimated to be Rs.5,23,958.
- Share of Central Government will be Rs.9,19,842.
- Non Tax Revenues for the next fiscal are estimated to be Rs.2,21,733 crore.
- Fiscal deficit will be 3.9 per cent of GDP and Revenue Deficit will be 2.8 per cent of GDP.

TAX PROPOSAL

- Objective of stable taxation policy and a non-adversarial tax administration.
- Fight against the scourge of black money to be taken forward.
- Efforts on various fronts to implement GST from next year.
- No change in rate of personal income tax.

- Proposal to reduce corporate tax from 30% to 25% over the next four years, starting from next financial year.
- Rationalisation and removal of various tax exemptions and incentives to reduce tax disputes and improve administration.
- Exemption to individual tax payers to continue to facilitate savings.
- Broad themes :
Measures to curb black money;
Job creation through revival of growth and investment and promotion of domestic manufacturing – “Make in India” ;
Improve ease of doing business - Minimum Government and maximum governance;
Improve quality of life and public health – Swachh Bharat;
Benefit to middle class tax-payers; and
Stand alone proposals to maximise benefit to the economy.

Ease of doing business – Minimum Government Maximum Governance

- Simplification of tax procedures.
- Monetary limit for a case to be heard by a single member bench of ITAT increase from Rs. 5 lakh to Rs.15 lakh.
- Penalty provision in indirect taxes are being rationalised to encourage compliance and early dispute resolution.

- Central excise/Service tax assesses to be allowed to use digitally signed invoices and maintain record electronically.



- Wealth-tax replaced with additional surcharge of 2 per cent on super rich with a taxable income of over Rs.1 crore annually.
- Provision of indirect transfers in the Income-tax Act suitably cleaned up.
- Applicability of indirect transfer provisions to dividends paid by foreign companies to their shareholders to be addressed through a clarificatory circular.
- Domestic transfer pricing threshold limit increased from Rs.5 crore to Rs. 20 crore.
- MAT rationalised for FIs and members of an AOP.
- Tax Administration Reform Commission (TARC) recommendations to be appropriately implemented during the course of the year.
- Education cess and the Secondary and Higher education cess to be subsumed in Central Excise Duty.

Just to Remind You

- March 21 - Payment of MVAT & WCT TDS for February
- March 31 - E-Payment of Service Tax for the month/quarter ended March
- March 31 - Filing of ITR for AY 2013-14
- March 31 - Payment of Balance Advance Tax

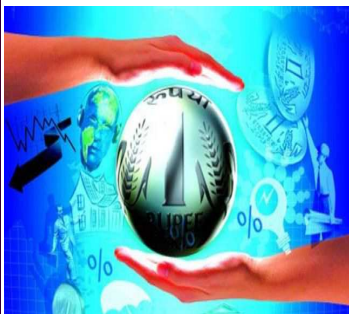
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- Specific rates of central excise duty in case of certain other commodities revised.
- Excise levy on cigarettes and the compounded levy scheme applicable to pan masala, gutkha and other tobacco products also changed.



- Excise duty on footwear with leather uppers and having retail price of more than Rs.1000 per pair reduced to 6%.
- Online central excise and service tax registration to be done in two working days.
- Time limit for taking CENVAT credit on inputs and input services increased from 6 months to 1 year.
- Service-tax plus education cesses increased from 12.36% to 14% to facilitate transition to GST.
- Donation made to National Fund for Control of Drug Abuse (NFCDA) to be eligible for 100% deduction u/s 80G of Income-tax Act.



Benefits to middle class taxpayers

- Limit of deduction of health insurance pre-

mium increased from Rs.15000 to Rs. 25000, for senior citizens limit increased from Rs.20000 to Rs.30000.

- Senior citizens above the age of 80 years, who are not covered by health insurance, to be allowed deduction of Rs. 30000 towards medical expenditures.
- Deduction limit of Rs. 60000 with respect to specified disease of serious nature enhanced to Rs. 80000 in case of senior citizen.
- Additional deduction of Rs.25000 allowed for differently abled persons.
- Limit on deduction on account of contribution to a pension fund and the new pension scheme increased from Rs. 1 lakh to Rs.1.5 lakh.
- Additional deduction of Rs. 50000 for contribution to the new pension scheme u/s 80CCD.
- Payments to the beneficiaries including interest payment on deposit in Sukanya Samriddhi scheme to be fully exempt.
- Service-tax exemption on Varishtha Bima Yojana.
- Concession to individual tax-payers despite inadequate fiscal space.
- Lot to look forward to as fiscal capacity improves.
- Conversion of existing excise duty on petrol and diesel to the extent of Rs. 4 per litre into Road Cess to fund investment.
- Service Tax exemption extended to certain pre cold storage services in

relation to fruits and vegetables so as to incentivise value addition in crucial sector.

- Negative List under service-tax is being slightly pruned to widen the tax base.
- Yoga to be included within the ambit of charitable purpose under Section 2(15) of the Income-tax Act.
- To mitigate the problem being faced by many genuine charitable institutions, it is proposed to modify the ceiling on receipts from activities in the nature of trade, commerce or business to 20% of the total receipts from the existing ceiling of Rs. 25 lakh.
- Most provisions of Direct Taxes Code have already been included in the Income-tax Act, therefore, no great merit in going ahead with the Direct Taxes Code as it exists today.
- Direct tax proposals to result in revenue loss of Rs. 8315 crore, whereas the proposals in indirect taxes are expected to yield Rs. 23383 crore. Thus, the net impact of all tax proposals would be revenue gain of Rs.15068 crore.

Swachh Bharat

- 100% deduction for contributions, other than by way of CSR contribution, to Swachh Bharat Kosh and Clean Ganga Fund.
- Clean energy cess increased from Rs.100 to Rs.200 per metric tonne of coal, etc. to finance clean environment initia-

tives.

- Excise duty on sacks and bags of polymers of ethylene other than for industrial use
- increased from 12% to 15%.
- Enabling provision to levy Swachh Bharat cess at a rate of 2% or less on all or certain services, if need arises.
- Services by common affluent treatment plant exempt from Service-tax.
- Concessions on custom and excise duty available to electrically operated vehicles and hybrid vehicles extended upto 31.03.2016.

Others

- Increase in basic custom duty:
Metallurgical coke from 2.5 % to 5%.
Tariff rate on iron and steel and articles of iron and steel increased from 10% to 15%.
Tariff rate on commercial

vehicle increased from 10 % to 40%.

- Basic custom duty on digital still image video camera with certain specification reduced to nil.
- Excise duty on rails for manufacture of railway or tram way track construction material exempted retrospectively from 17-03-2012 to 02-02-2014, if not CENVAT credit of duty paid on such rails is availed.
- Service-tax to be levied on service provided by way of access to amusement facility, entertainment events or concerts, pageants, non recognised sporting events etc.
- Service-tax exemption:

Services of pre-conditioning, pre-cooling, ripening etc. of fruits and vegetables.

Life insurance service provided by way of Varishtha Pension Bima Yojana.

All ambulance services provided to patients.

Admission to museum, zoo, national park, wild life sanctuary and tiger reserve.

Transport of goods for export by road from factory to land customs station.

- Enabling provision made to exclude all services provided by the Government or local authority to a business entity from the negative list.
- Service-tax exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port withdrawn.
- Transportation of agricultural produce to remain exempt from Service-tax.
- Artificial heart exempt from basic custom duty of 5% and CVD.
- Excise duty exemption for captively consumed intermediate compound coming into existence during the manufacture of agarbathi.

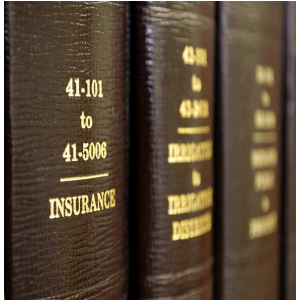


Highlights of Maharashtra State Budget 2015

- The premium rate on the additional FSI has been increased. This would result in the rise of the property prices.
- 5% entry tax levied on the long steel imported from other states. This would rise the cost of the materials used for construction as well as heavy machinery and packaging industry and also laboratory.
- Revised slab of the excise duty on the country liquor will lead to rise in the rate of country liquor.
- Govt announces scrapping of Local body tax (LBT) from August 1, 2015
- Reduction in the tax on the guide wire required for medical treatment from 12.2% to 5%
- Tax on the LED bulbs reduced from 12.5% to 5%, which will result in the reduction of prices of the LED bulbs, which are showing rapid growth in sales.
- Certain medicines required for the treatment of cancer has been exempted from taxes.
- The tax on the white butter has been reduced to 5% from 12.5% to bring it on par with the desi butter. This will come into effect with retrospective effect from April 1, 2010.
- The tax on the embroidery thread has been reduced to 5% on par with the tax on sewing thread.
- Tax on workbooks, drawing book, laboratory and graph books used by students has been removed.
- The cap of the profession tax has been extended to Rs 10,000 for the salaried women.



Highlights of Insurance Laws (Amendment) Bill, 2015



The Insurance Laws (Amendment) Bill, 2015 was passed by the Lok Sabha on 4th March, 2015 and by the Rajya Sabha on 12th March, 2015. The passage of the Bill thus paved the way for major reform related amendments in the Insurance Act, 1938, the General Insurance Business (Nationalization) Act, 1972 and the Insurance Regulatory and Development Authority (IRDA) Act, 1999. The Insurance Laws (Amendment) Act 2015 to be so enacted, will seamlessly replace the Insurance Laws (Amendment) Ordinance, 2014, which came into force on 26th December 2014. The amendment Act will remove archaic and redundant provisions in the legislations and incorporates certain provisions to provide Insurance Regulatory and Development Authority of India (IRDAI) with the flexibility to discharge its functions more effectively and efficiently. It also provides for enhancement of the foreign investment cap in an Indian Insurance Company from 26% to an explicitly composite limit of 49% with the safeguard of Indian ownership and control.

Capital Availability: In addition to the provisions for enhanced foreign equity, the amended law will enable capital raising through new and innovative instruments under the regulatory supervision of IRDAI. Greater availability of capital for the capital intensive insurance sector would lead to greater distribution reach to under / un-served areas, more innovative product formulations to meet diverse insurance needs of citizens, efficient service delivery through improved distribution technology and enhanced customer service standards. The Rules to operationalize the new pro-

visions in the Law related to foreign equity investors have already been notified on 19th Feb 2015 under powers accorded by the ordinance.

The four public sector general insurance companies, presently required as per the General Insurance Business (Nationalisation) Act, 1972 (GIBNA, 1972) to be 100% government owned, are now allowed to raise capital, keeping in view the need for expansion of the business in the rural and social sectors, meeting the solvency margin for this purpose and achieving enhanced competitiveness subject to the Government equity not being less than 51% at any point of time.

Consumer Welfare: Further, the amendments to the laws will enable the interests of consumers to be better served through provisions like those enabling penalties on intermediaries / insurance companies for misconduct and disallowing multilevel marketing of insurance products in order to curtail the practice of mis-selling. The amended Law has several provisions for levying higher penalties ranging from up to Rs.1 Crore to Rs. 25 Crore for various violations including mis-selling and misrepresentation by agents / insurance companies. With a view to serve the interest of the policy holders better, the period during which a policy can be repudiated on any ground, including mis-statement of facts etc., will be confined to three years from the commencement of the policy and no policy would be called in question on any ground after three years.

The amendments provide for an easier process for payment to the nominee of the policy holder, as the insurer would

be discharged of its legal liabilities once the payment is made to the nominee.

It is now obligatory in the law for insurance companies to underwrite third party motor vehicle insurance as per IRDAI regulations. Rural and Social sector obligations for insurers are retained in the amended laws.

Empowerment of IRDAI: The Act will entrust responsibility of appointing insurance agents to insurers and provides for IRDAI to regulate their eligibility, qualifications and other aspects. It enables agents to work more broadly across companies in various business categories; with the safeguard that conflict of interest would not be allowed by IRDAI through suitable regulations.

IRDAI is empowered to regulate key aspects of Insurance Company operations in areas like solvency, investments, expenses and commissions and to formulate regulations for payment of commission and control of management expenses.

It empowers the Authority to regulate the functions, code of conduct, etc., of surveyors and loss assessors. It also expands the scope of insurance intermediaries to include insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrators, surveyors and loss assessors and such other entities, as may be notified by the Authority from time to time.

Further, properties in India can now be insured with a foreign insurer with prior permission of IRDAI; which was earlier to be done with the approval of the Central Government.



Health Insurance: The amendment Act defines `health insurance business` inclusive of travel and personal accident cover and discourages non-serious players by retaining capital requirements for health insurers at the level of Rs. 100 Crore, thereby paving the way for promotion of health insurance as a separate vertical.

Promoting Reinsurance Business in India: The amended law enables foreign reinsurers to set up branches in India and defines `re-insurance` to mean "the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium", and thereby excludes the possibility of 100% ceding of risk to a re-insurer, which could lead to companies acting as front companies for other insurers. Further, it enables Lloyds and its members to operate in India through setting up of

branches for the purpose of reinsurance business or as investors in an Indian Insurance Company within the 49% cap.

Strengthening of Industry Councils: The Life Insurance Council and General Insurance Council have now been made self-regulating bodies by empowering them to frame bye-laws for elections, meetings and levy and collect fees etc. from its members. Inclusion of representatives of self-help groups and insurance cooperative societies in insurance councils has also been enabled to broad base the representation on these Councils.

Robust Appellate Process: Appeals against the orders of IRDAI are to be preferred to SAT as the amended Law provides for any insurer or insurance intermediary aggrieved by any order made by IRDAI to prefer an appeal to the Securities Appellate Tribunal (SAT).

Thus, the amendments incorporate enhancements in the Insurance Laws in keeping with the evolving insurance sector scenario and regulatory practices across the globe. The amendments will enable the Regulator to create an operational framework for greater innovation, competition and transparency, to meet the insurance needs of citizens in a more complete and subscriber friendly manner. The amendments are expected to enable the sector to achieve its full growth potential and contribute towards the overall growth of the economy and job creation.



Companies Act, 2013 clarification on Section 185 and 186

The Ministry of Corporate Affairs (MCA) has issued General Circular No. 04/2015, Dated: 10/03/2015 on the clarification of Loans and Advances to employees under Section 185 and 186 of the Companies Act, 2013 ("CA, 2013"). This alert has covered all the significant updates on the loans and investments made by the Indian Company which will upgrade the knowledge of each individual.

Background

A. Section 185 of the CA, 2013 which contains provisions dealing with granting of loans & advances and providing of guarantees and securities by a company to its directors and other entities in which directors are interested

got notified with effect from 12.09.2013.

Transactions which are prohibited, directly or indirectly:

- Advancing of any loan, including any loan represented by a book debt, and
- Giving of any guarantee or providing of any security in connection with any loan.

Exceptions to above prohibition:

- Giving of any loan to a **managing or whole-time director** as a part of the conditions of service extended by the company to all its employees or pursuant to any scheme

approved by the members by a special resolution

- A company which in the **ordinary course of its business** provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the bank rate declared by the Reserve Bank of India.

B. In 2014, MCA vide General Circular No 03/2014, Dated: 14/2/2014, has clarified on the applicability of Section 185 of the Companies Act, 2013 vis-à-vis Section 372A of the Companies Act, 1956 that any guarantee given or



Companies Act 2013



security Provided by q holding company in respect of loans made by o bank or financial institution to its subsidiary company, exemption as provided in clause (d) of sub-section (8) of section 372A of the Companies Act, 1956 shall be applicable till section 186 of the Companies Act, 2013 is notified. This clarification will, however, be applicable to cases where loans so obtained are exclusively utilized by the subsidiary for its principal business activities.

C. Subsequently, in June 2014, MCA has clarified vide General Circular No. 15/2014 dated June 09, 2014 on the maintenance of register of loans/guarantee/security/making acquisition in new format as prescribed in Form MBP2 under Section 186 (9) of the CA, 2013.

D. Section 186 of the CA, 2013, has restricted the Indian Companies to give:

any loan to any person or other body corporate;

give any guarantee or provide security in connection with a loan to any other body corporate or person; and

acquire by way of subscription, purchase or otherwise,

the securities of any other body corporate,

exceeding sixty per cent of its paid-up share capital, free reserves and securities premium account or one hundred per cent of its free reserves and securities premium account, whichever is more.

E. Recently, MCA has clarified on the applicability of Section 185 and 186 of the CA, 2013 vide General Circular No. 04/2015, Dated: 10/03/2015 that loans and/or advances made by the companies to their employees, other than the managing or whole time directors (which is governed by section 185) are not governed by the requirements of section 186 of the Companies Act, 2013. This clarification will, however, be applicable if such loans/advances to employees are in accordance with the conditions of service applicable to employees and are also in accordance with the remuneration policy, in cases where such policy is required to be formulated,

Key Highlights

Section 186 has been mentioned that no Company shall directly or indirectly give loan to ANY PERSONS exceeding

sixty per cent of its paid-up share capital, free reserves and securities premium account or one hundred per cent of its free reserves and securities premium account, whichever is more. Through the recent circular by MCA, it has been clarified that in the definition of "any person", the Managing Director (MD) or Whole-time Director (WTD) shall not be included. Therefore, the threshold mentioned under the said Section will not be considered while giving loans to MD/WTD.

Conclusion

The MCA has clarified that the provision of Loan to directors or loan and investments by the Indian Companies shall not be applicable to the MD or WTD of the Company.

Rest of the provisions of Section 185 and 186 of the CA, 2013 read with the Companies (Meetings of Board and its Powers) Rules, 2014 shall be applicable in the same manner as may be prescribed

HC Directive on issue of MVAT Refund

Vichare and Co. Pvt. Ltd. & Others versus The State of Maharashtra and Ors. (Bombay High Court), WRIT PETITION (L) NO. 297 OF 2015, Dated:- MARCH 3, 2015

Issue- The only grievance of the parties like the Petitioners is that the returns though furnished and submitted have not been scrutinised and verified in terms of the law and the admissible refund is also

not granted.

Contention raised by the revenue- There are certain issues raised by the Respondents (Sales Tax Department) and about non compliance with the relevant rules or provisions of law enabling the Petitioners to seek refund and equally the Respondents to process the claims of the parties like the Petitioners.

Held by Hon'ble High Court- If the returns are furnished and

submitted, then, they deserve to be scrutinised. If they should be scrutinised expeditiously and early and equally the claims for refund in pursuance thereof, then, the only direction that we issue is that the Respondents process such cases and as expeditiously as possible.



DGFT specifies documents required for Export and Import

S.O.(E) In exercise of the power conferred by Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with Para 2.1 of the Foreign Trade Policy, 2009-2014, the Central Government hereby inserts a new Para 2.53 of Foreign Trade Policy, 2009-14:

2. Para2.53: The following mandatory documents are prescribed for exports and imports of goods from/into India:

(a) Mandatory documents required for export of goods from India:

1. Bill of Lading/Airway Bill
2. Commercial Invoice cum

Packing List*

3. Shipping Bill/Bill of Export

(b) Mandatory documents required for import of goods into India

1. Bill of Lading/Airway Bill
2. Commercial Invoice cum Packing List*
3. Bill of Entry

[Note: *(i) As per CBEC Circular No. 01/15-Customs dated 12/01/2015.

(ii) Separate Commercial Invoice and Packing List would also be accepted.]

(c) For export or import of specific goods or category of goods, which are subject to

any restrictions/policy conditions or require NOC or product specific compliances under any statute, the regulatory authority concerned may notify additional documents for purposes of export or import.

(d) In specific cases of export or import, the regulatory authority concerned may electronically or in writing seek additional documents or information, as deemed necessary to ensure legal compliance.

(e) This Notification shall come into effect from 1st April, 2015.



RBI Update on KYC

Please refer to paragraph 2.5 (h) of our Master Circular no. DBOD.AML.BC.No.22/14.01.001/2014-15 dated July 1, 2014 on KYC norms and our circular DBOD. AML.BC. No. 80/14.01.001/2009-10 dated March 26, 2010, prescribing norms for opening a bank account in respect of a sole proprietary firm and subsequent circulars dated August 31, 2010 and April 17, 2012 further relaxing the documents required for the same.

Reserve Bank has been receiving representations pointing out difficulties in complying with the requirement of furnishing two documents as activity proof while opening accounts of sole proprietary firms in certain cases. It is possible that in some types of activities there is genuine difficulty in procuring two such documents. The matter has, therefore, been reviewed with

a view to ease the process of opening bank accounts of proprietary concerns in such cases. The default rule is that any two documents, out of those listed in paragraph 2.5 (h) of the Master Circular, should be provided as activity proof by a proprietary concern. However, in cases where the banks are satisfied that it is not possible to furnish two such documents, they would have the discretion to accept only one of those documents as activity proof. In such cases, the banks, however, would have to undertake contact point verification, collect such information as would be required to establish the existence of such firm, confirm, clarify and satisfy themselves that the business activity has been verified from the address of the proprietary concern.

It is also clarified here that the list of registering authorities

indicated in paragraph 2.5 (h) of the Master circular is only illustrative and therefore includes license/certificate of practice issued in the name of the proprietary concern by any professional body incorporated under a statute, as one of the documents to prove the activity of the proprietary concern.

Banks may revise their KYC policy in the light of the above instructions and ensure strict adherence to the same.



Know Your Customer

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ICAI forms expert panel for addressing Bank Branch Audit Queries

The bank audit season is around the corner. Given the fact that the banking industry is typical in terms of its geographical and customer spread, the volume and varied nature of products and services offered, coupled with the strict constraints for completing the audits, the members, many a times, face a lot of issues/ queries while conducting Bank Branch Audits. These could include determination of NPA status, implications of complicated data found in a branch audit, unavailability of any relevant RBI circular, implications of the requirements of RBI circular, nature and adequacy of documentation, possible wordings of the audit report on some important matters in bank branch audit,

issues relating to LFAR, etc.

With a view to support our members for fast resolution of such queries, the Auditing and Assurance Standards Board (AASB) is pleased to offer an Online support to our members from **23th March, 2015 to 11th April, 2015** for the bank branch audits for the year ended 31st March 2015. The queries can be sent at bankauditfaq@icai.in.

The Online support facility will be managed by an expert panel containing the following members:

Panel Coordinators

CA Abhijit Bandyopadhyay, Central Council Member (CCM) and Chairman, AASB
CA J Venkateshwarelu, CCM and

Vice-Chairman, AASB, CA Shrinivas Y. Joshi, CCM, CA Sanjeev Maheshwari, CCM, CA Nilesh Vikamsey, CCM, CA Charanjot Singh Nanda, CCM, CA. Naveen ND Gupta, CCM, CA. Babu A Kallivayalil, CCM, CA. Shyam Lal Agarwal, CCM and CA Anuj Goyal, CCM.

The queries so received will be distributed amongst the members of the panel on random basis and they would reply to the same.



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